

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. Of: AKINS et al.
Serial No.: 10/586,436
Filed: JULY 17, 2006
For: WORK CAPACITIES TESTING APPARATUS AND METHOD
Art Unit: UNASSIGNED
Examiner: UNASSIGNED DOCKET: BANKS 04.01
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**RESPONSE TO NOTICE TO FILE MISSING PARTS
OF NONPROVISIONAL APPLICATION**

Dear Sir:

In response to the Notice to File Missing Parts of Nonprovisional Application mailed January 29, 2008, submitted herewith are copies of Applicants' previous submission of January 31, 2008, including the Transmittal Form, a five (5) page Declaration and Power of Attorney and an Acknowledgement Receipt showing Applicants have paid the \$65.00 surcharge.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account No. 502262.

Respectfully submitted,

/Dale F. Regelman/

Dale F. Regelman
Attorney for Applicants
Reg. No. 45,625

CHANDLER & UDALL, LLP
4801 E. Broadway Blvd
Suite 400
Tucson, AZ 85711-3609

TEL 520-623-4353
FAX 520-792-3426

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is herewith being electronically transmitted via Electronic Filing System to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

/Kim Good/
Signature

February 28, 2008
Date of Signature

CHANDLER & UDALL, LLP
4801 E. Broadway Blvd
Suite 400
Tucson, AZ 85711-3609

TEL 520-623-4353
FAX 520-792-3426

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/586,436
Filing Date	JULY 17, 2006
First Named Inventor	AKINS ET AL.
Art Unit	
Examiner Name	
Attorney Docket Number	BANKS 04.01

COPY**ENCLOSURES (Check all that apply)**

- | | | |
|--|--|---|
| <input type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement

<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input type="checkbox"/> Petition
<input type="checkbox"/> Petition to Convert to a Provisional Application
<input type="checkbox"/> Power of Attorney, Revocation
<input type="checkbox"/> Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) _____
<input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
COMBINED DECLARATION AND POWER OF ATTORNEY |
|--|--|---|

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	CHANDLER & UDALL, LLP		
Signature	/Dale F. Regelman/		
Printed name	Dale F. Regelman		
Date	January 31, 2008	Reg. No.	45625

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Typed or printed name

Date

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

COPY

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is herewith being electronically transmitted via Electronic Filing System to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

/Kim Good/

Signature

January 31, 2008

Date of Signature

COMBINED DECLARATION AND POWER OF ATTORNEY
FOR PATENT APPLICATION

Attorney Docket No: BANKS 04.01

First Named Inventor: AKINS ET AL.

Complete if known: Serial No: 10/586,436 Filing Date: July 17, 2006

Group Art Unit: _____ Examiner: _____

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **WORK CAPACITIES TESTING APPARATUS AND METHOD**, the specification of which is attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, S. 1.56(a).

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of any PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s):

<u>Prior Foreign Application(s):</u>			<u>Priority Claimed</u>	<u>Certified Copy Attached</u>
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____ (Number)	_____ (Country)	_____ (Month/Day/Year Filed)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
_____ (Number)	_____ (Country)	_____ (Month/Day/Year Filed)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below:

Application No: <u>60/536,822</u>	Filing Date: <u>January 15, 2004</u>
--------------------------------------	---

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>PCT/US2005/001183</u>	<u>January 14, 2005</u>	
Parent Patent Application No.	Filing Date	Patent Number

POWER OF ATTORNEY: As a named inventor, I hereby appoint the attorney(s) and/or agent(s) associated with the below listed Customer Number to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:


43755

Send correspondence to and telephone calls:

Dale F. Regelman, Reg. No. 45,625
Law Office of Dale F. Regelman, P.C.
4231 S. Fremont Avenue
Tucson, AZ 85714
Telephone No. (520) 741-7636

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of First inventor: **Robert Akins**

First Inventor's signature  Date 1-18-08
Residence: 4263 W. Milton Road, Tucson, Arizona 85746
Citizenship: United States of America
Post Office Address: same as residence

Full name of Second inventor: **John Banks**

Second Inventor's signature _____ Date _____
Residence: 9430 S. Watson Gulch Road, Littleton, Colorado 80127
Citizenship: United States of America
Post Office Address: same as residence

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

Parent Patent Application No.	Filing Date	Patent Number
PCT/US2005/001183	January 14, 2005	

POWER OF ATTORNEY: As a named inventor, I hereby appoint the attorney(s) and/or agent(s) associated with the below listed Customer Number to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

43755

Send correspondence to and telephone calls:

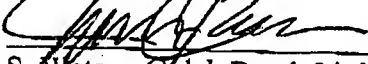
Dale F. Regelman, Reg. No. 45,625
Law Office of Dale F. Regelman, P.C.
4231 S. Fremont Avenue
Tucson, AZ 85714
Telephone No. (520) 741-7636

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of First inventor: **Robert Akins**

First Inventor's signature _____ Date _____
Residence: 4263 W. Milton Road, Tucson, Arizona 85746
Citizenship: United States of America
Post Office Address: same as residence

Full name of Second inventor: **John Banks**

Second Inventor's signature  Date 1-17-08
Residence: 9430 S. Watson Gulch Road, Littleton, Colorado 80127
Citizenship: United States of America
Post Office Address: same as residence

Full name of Third inventor: **Mark Means**

Third Inventor's signature *Mark Means* Date 1-20-08

Residence: 6811 E. Paseo San Andres, Tucson, Arizona 85710

Citizenship: United States of America

Post Office Address: same as residence

IMPORTANT NOTICE RE DUTY OF CANDOR AND GOOD FAITH

The Duty of Disclosure requirements of Section 1.56(a), of Title 37 of the Code of Federal Regulations are as follows:

A duty of candor and good faith toward the Patent and Trademark Office rests on the inventor, on each attorney or agent who prepares or prosecutes the application and on every other individual who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application. All such individuals have a duty to disclose to the Office information they are aware of which is material to the examination of the application. Such information is material where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent. The duty is commensurate with the degree of involvement in the preparation or prosecution of the application.

By virtue of this regulation each inventor executing the Declaration for the filing of a Patent Application acknowledges his duty to disclose information of which he is aware and which may be material to the examination of the application.

Inherent in this is the duty to disclose any knowledge or belief that the invention:

- (a) was ever known or used in the United States of America before his invention thereof;
- (b) was patented or described in any printed publication in any country before his invention thereof or more than one year prior to the actual filing date of the U.S. patent application;
- (c) was in public use or on sale in the United States of America more than one year prior to the actual filing date of the U.S. patent application; or
- (d) has been patented or made the subject of inventor's certificate issued before the actual filing date of the U.S. patent application in any country foreign to the United States of America on an application filed by him or his legal representatives or assigns more than twelve months before the actual filing date in the United States.

NOTE: The "Information" concerned includes, but is not limited to, all published applications and patents, including applicant's and assignee's own, U.S. or foreign applications and patents, as well as any other pertinent prior art known, or which becomes known, to the inventor or his representatives. Where English language equivalents of foreign language documents are known, they should be identified and, when possible, copies supplied. Failure to comply with this requirement may result in a patent issued on the application being held invalid even if the known prior art which is not supplied is material to only one claim of that patent.

Electronic Acknowledgement Receipt

EFS ID:	2796495
Application Number:	10586436
International Application Number:	
Confirmation Number:	5604
Title of Invention:	Work capacities testing apparatus and method
First Named Inventor/Applicant Name:	Robert Akins
Correspondence Address:	Dale F. Regelman Law Office of Dale F. Regelman 4231 S. Fremont Avenue - Tucson AZ 85714 US - -
Filer:	Dale Regelman/Kim Good
Filer Authorized By:	Dale Regelman
Attorney Docket Number:	BANKS 04.01
Receipt Date:	31-JAN-2008
Filing Date:	
Time Stamp:	15:46:17
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	\$65

RAM confirmation Number	1117
Deposit Account	
Authorized User	

COPY

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1	Miscellaneous Incoming Letter	Transmittal.pdf	62069 4fa11c34949c9224b645a7d734be34a8b10406f1	no	2

Warnings:

Information:

2	Oath or Declaration filed	Declaration.pdf	219700 4e0722ac36c98a5acbb618089403cc854deab020	no	5
---	---------------------------	-----------------	--	----	---

Warnings:

Information:

3	Fee Worksheet (PTO-06)	fee-info.pdf	8169 549077ede3e1e7c52ec9289879acdad84141b983	no	2
---	------------------------	--------------	--	----	---

Warnings:

Information:

Total Files Size (in bytes):			289938
------------------------------	--	--	--------

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.